

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

David Keeley,

Plaintiff,

v.

Case No. 2:18-cv-1355

Brad Eller, et al.,

Defendants.

OPINION AND ORDER

This is an action filed by David Keeley, proceeding pro se, against Health Care Administrator Brad Eller, and other officials and employees of the Ohio Department of Rehabilitation and Correction. Plaintiff alleges that while he was incarcerated at the Belmont Correctional Institution, the defendants were deliberately indifferent to a serious medical condition by failing to properly treat an eye injury and causing a delay in scheduling surgery and treatment.

The magistrate judge conducted an initial screen of plaintiff's complaint pursuant to 28 U.S.C. §1915(e)(2). In an initial screen report and recommendation filed on November 9, 2018, the magistrate judge granted plaintiff's request to proceed in forma pauperis, but recommended that plaintiff's complaint be dismissed as being barred under the Rooker-Feldman doctrine, see Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923), and Dist. of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983), and the doctrine of res judicata.

The report and recommendation specifically advised plaintiff that the failure to object to the report and recommendation within fourteen days of the report "will result in a waiver of the right

to have the District Judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation." The time period for filing objections to the report and recommendation has expired, and no objections have been filed.

The court agrees with the conclusions of the magistrate judge, and hereby adopts the report and recommendation (Doc. 4). Plaintiff's complaint is hereby dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii), for failure to state a claim for which relief may be granted. The clerk shall enter a judgment dismissing this case.

Date: November 28, 2018

s/James L. Graham
James L. Graham
United States District Judge